G. R. S. IX—5]

*Previous references* 1924-S (G.T.)

**File No.** 1-29

**Serial Nos.** 1-4

*Later references*

G.T. II-N6-2

# GENERAL AND REVENUE SECRETARIAT.

*Serial Nos.* 4.

**Part B for** Sept: 1924

SUBJECT

Assessment to incometax of General Assurance Society Ltd Ajmer

Pol 272 & 18.9.24

To The Secy to The Resident

Stating that the Company can claim a refund of the Mysore Tax paid by it in respect of its business in the State from the British Incometax Authority etc

G. R. S. 11] 1924

GENERAL AND REVENUE SECRETARIAT.

(Income Tax

NOTES.

G. T. File No. 1 - 24

FILE HEADING.

Assessment of General Assurance Society, Ltd., Ajmer to Income Tax in Mysore

From

The Secretary to the Resident in Mysore

No. 5166/43-1917 Dated 30.6.24 Received 1.7.24/3

| Diary No. 2 | Enclos. 1 | Spare Copies. - | Serial No. 1 |
|---|---|---|---|

BRIEF ABSTRACT OF LETTER.

Forwards copy of a letter from the manager, General Assurance Society, Ajmere, in the matter of tax levied on them in Mysore & requests that the facts of the case may be verified and intimated for the information of the Central Board of Revenue.

NOTES AND ORDERS.

1 Subd. with a draft calling for a report
W.W. 3/7
G.S. 3/7/24

2 To. The Comm^r of Income Tax no. C 118 25.8.24.
Calls for a report

NOTES—First Sheet.

G. R. S. III-21

General and Revenue Secretariat. | IT File No. 1 of 1924

Serial No. 3

From The Comm^r of Income Tax
no. C 118 25.8.24

Reports on the case.

Subd:- The assessment on the company for the year 1922-23 has been made by taking into account the total income of the company both in Mysore & British India in accordance with Section 16(1) of the Mysore I.T. Reg^n.

3 According to the Reciprocal arrangements which is referred to by the Residency it will be seen that when the principal place of business is in British India the Mysore Income Tax authority assesses income tax on the profits arising from the business in the Mysore State & the British Income Tax authority has to make a rebate with reference to the tax payable on the profits in Mysore as adjudged by him.

H.

4 The contention of the Company is that they are not liable to Mysore Income Tax as their income here is only Rs 1,664/ which is much below than Rs 2,400/ the taxable minimum But this does not seem tenable, as the

NOTE—Contn. sheet.

G. R. S. III-2]

WD 2310—GPB—10,000—31-5-24

General and Revenue Secretariat. | IT File No. 1 of 1924

Serial No.

provisions in Section 16(1) of the Mysore Rly^n are clear. From the letter dt 13th May 1924 of the Manager of the Company to the Central Board of Revenue, it is seen that the Company has paid full tax on the total profits at Ajmere. What ought to have been the case is that the I.T. Officer of Ajmere should have given a rebate of the tax paid in Mysore according to the reciprocal arrangements. Submitted with references.

WV 5/9. Please put up a draft reply

mad 6/9/24

Draft Submitted.

WV 8/9. Rev Sec'y) Mappe mad 8/9/24

11 Member)

215/9.9 Rep 9/9 mad

Please put up a fair copy on revised lines for approval

Rep 9.9

Submitted with a typed copy of the revised draft

WV 10/9. 2nd member) mad 10/9/24

330/13.9

NOTE—Contn. sheet.

Rep 15-9

G. R. S. III·2]

WD 2310—GPB—10,000—31-5-24

| General and Revenue Secretariat. | File No. | of 19 |
|---|---|---|

| Serial No. | |
|---|---|
| | 11 June |
| | 4 |

B/

4 [illegible]: 272 & 18.9.24

To Secy to His Resident

Stating that the Company's
Claim [illegible]
[illegible]
State [illegible]

NOTE —Contn. sheet.

Pol 2

R. O. 2.—R. P. B.—5—1922.—5,000.

No. 5166 Enc. 1

43 - 1917

From

A. N. L. Cater, Esq., I.C.S.,
Secretary to the Resident in Mysore.

DIARY NO. 2
19 — 19
Section. G. T
I. L. N. 1-24.
1

1 - JUL 1924

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Revenue Department.

Dated Bangalore, 30th June 1924.

Subject:—

General Assurance Society Limited Ajmer - Assessment - Mysore income-tax - Letter from the Manager No.A/1995, dated the 13th May 1924.

Sir,

I am directed to enclose a copy of the letter quoted above with enclosures, and to request that the facts of the case as stated by the General Assurance Society may kindly be verified as far as possible and intimated to the Resident for the information of the Central Board of Revenue, regard being had to the provisions of the Mysore Income Tax Regulation and the agreement between the Government of India and the Government of Mysore on the subject of assessment of businesses with headquarters in British India and branches in Mysore.

I have the honour to be,
Sir,
Your most obedient servant,

Cater

SECRETARY TO THE RESIDENT.

CBS

Letter No.2153, dated the 5th June 1924, from the Secretary Central Board of Revenue, Simla, to the Hon'ble the Resident in Mysore, Bangalore.

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General
~~Central~~ Assurance Society Limited, Ajmer - Assessment of. Mysore Income-tax - letter from the Manager, No.A/1995, dated the 13th May 1924.

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I am directed to enclose a copy of the letter quoted above with enclosures and to request that the facts of the case as - stated by the General Assurance Society may be verified and -- reported to the Board. The Board would also be glad to know - whether the assessment of the society made in Mysore State is in accordance with the Mysore Income-tax law and with the agreement arrived at between the Government of India and the Mysore Darbar in regard to the assessment of businesses with headquarters in British India and branches in the Mysore State.

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Letter No.A.1995, dated the 13th May 1924, from the Manager, General Assurance Society, Limited, Ajmere, to the Secretary, Central Board of Revenue, Government of India, Simla.

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ASSESSMENT OF INCOME - TAX IN MYSORE STATE.

---

This Society has its Head-Office at AJMERE with a Branch at Bangalore which is under Mysore State Government.

The Ajmere Income-tax Officer has arrived at a figure of - Rs.5,038/- as the average yearly profits of this Society as per - valuation report enclosed herewith and accordingly the proportionate profits as compared with the annual premium income for Bangalore - Branch comes to Rs.1,664/- and on which the Mysore State Income-tax office has assessed although the minimum taxable income, as per - State Rules and Regulations is fixed to be Rs.2400/-.

According to the Government of India letter No.3242-F, dated - 21st December 1920 addressed to all Local Governments and Administr. tions in which they refer to Section 9 (3) of the Mysore Income-tax Regulation (No.6 of 1920) and particularly to the second paragraph of this India Government letter, Mysore Government Income-tax office is not justified in demanding the tax from our Bangalore Branch, -

when we have paid full tax on the total profits at Ajmere - the Headquarters of the Society.

We shall therefore thank you to kindly give us your final - decision and ruling whether Mysore Government Income-tax Office is justified in demanding the tax and if so, we are entitled to a refund of the assessed tax at Bangalore by the local Income-tax - Office at Ajmere.

Awaiting your early decision in the matter as the Mysore - Income-tax authorities are threatening us with heavy penalties - (copies of their letters are enclosed herewith)etc., and thanking you in anticipation.

---

Letter No.ACB21-65/ dated 29th April 1924 received from the Assistant Commissioner of Income-tax in Mysore, Bangalore.

---

You have not paid the sum of Rs.208/- being the first instalment of income-tax due by you for the year 23-24 on the due date viz. 23rd April 1924 in accordance with notice of assessment sent to you the order on your revised petition on 20th February 1924. You are requested to take notice that in - consequence of your default, the whole amount of the tax has now - become due and that in addition, a penalty of Rs.2-1-3 has been -- imposed upon you. You are further warned that unless the whole -- amount due (Rs.210/1/3) together with the said penalty is paid -- within 20 days from the date of this notice, a further penalty of - ten times the penalty now imposed will be levied and that in case of persistant default, the Regulation provides for the levy of a penalty equivalent to the whole tax.

---

Letter No.ACB21-A870 dated the 22nd March 1924, from the - Assistant Commissioner of Income-tax in Mysore, Bangalore, to the Superintendent of Branches and Chief Agencies, The General Assurance Society, Chamarajpet, Bangalore.

---

In reply to your letter of 15th March 1924, I have the honour to state that the tax has been correctly levied under the Regulation as recently altered and the old agreement between the two Government

2. The amount of Rs.1664/- is the amount bearing the same - proportion to the annual income as fixed by the British India - authorities viz., Rs.5,038/- as the Mysore premia collections bear to the total premia collections according to the published Balance Sheet.

3. If you feel aggrieved, an appeal, of course, lies to the - Deputy Commissioner of Income-tax. I would, however, request you to pay up the tax demanded, on the due dates.

---

Letter No.3242-F, dated the 21st December 1920 from the Under Secretary to the Government of India, Finance Department, to all Local Governments and Administrations.

---

I am directed to invite a reference to Section 9 (3) of the Mysore Income-tax Regulation (No.6 of 1920) which runs as follows:-

"In computing the profits of a business, which has its head-quarters in Mysore, but has Branches also in British India a - deduction shall be allowed of the amount of profits appearing to the Assessing Officer to be due to the transactions carried on in British India".

2. The Government of India have agreed that in the case of businesses, whose headquarters are in British India, but which have branches in Mysore, a deduction shall be made from the Indian Income-tax payable on the profits of such businesses of the amount of Mysore Income-Tax that would be payable on the profits, which appear to the assessing Officer in British India to be due to transactions in Mysore. Businesses with headquarters in Mysore, which have Branches or dealings in British India, should be assessed by the Income-tax authorities to the full amount of Income-tax due on the profits realised in British India only. I am to - request that instructions may be issued to assessing Officers to - give effect to these arrangements.

This clearly means that the profits earned by the branches in Mysore should be a taxable minimum of Rs.2,400/- whereas in our case it is only Rs.1,664/-

---

" COPY ".

REGISTRAR, RESIDENT'S OFFICE.

MVR.

G. R. S. VI—G/32]

SUBJECT .....

.....

.....

*Diary No. of letter replied to* .....

General and Revenue Secretariat

( )

*, the* *192* .

Date of issue 6.7.24

Signed by Sm In A. Rayacha

Section I.T

File No. 1-24

Serial No. 2

No. H 76 Gen/

To

The Commissioner of
Income Tax in
Mysore

Sir,

I am directed to forward a copy of letter no. A/1995 dt 13th May 1924, ~~with enclosures~~, from the Manager, The General Assurance Society, Ltd, Ajmere and to request that the facts of the case as represented therein may kindly be verified and the result of such verification intimated to Govt regard being had to the provisions of the Mysore I.T. Rules & the reciprocal

over.

WD 0632-GPB—18000—16-8 23

arrangements between the Govts
of Mysore & India ~~on the Subject~~
~~of assessment of~~ in ~~Income Tax~~ the
matters of assessment of businesses
with head quarters & Branches at mysore
I have etc

3/7/24

Yr Secy to Govt,
Rev. Deptt

WD

*List of enclosures,*

*Copied by*

*Examined by*

11624

I.T.66]

In reply refer to No. Cs 11 24-25 Enc. One file of four papers

D. 796 Jll

OFFICE OF THE COMMISSIONER OF INCOME-TAX IN MYSORE,

*Bangalore*.....25th..August..... *1924*

9.T.1-24-3

FROM

V. R. THYAGARAJA AIYAR, ESQ., M.A.,
COMMISSIONER OF INCOME-TAX IN MYSORE.

K. V. Anantharaman, Esq., B.A.,
Secretary to the Government of Mysore,
Revenue Department, Bangalore.

Sir,

With reference to your letter No.74/I.T.1-24-2 dated 4th July 1924 asking me to verify the facts represented in the letter No. A.1995 dated 13th May 1924 from the Manager, the General Assusrance Society, Ltd., to the Secretary, Central Board of Inland Revenue, and to report the result thereof to Government, I have the honour to state that the income of the company in Mysore for 1922-23 has been taken at Rs 1,664 and the same has been assessed by the Assistant Commissioner of Income Tax as the total income of the company (viz., Rs 5,038) both in Mysore and British India exceeded the taxable minimum namely Rs 2,400, the total income being computed in accordance with section 16(1) of the Mysore Income Tax Regulation, 1923, which declares that the deduction allowed under section 10(4) of the Regulation shall be included.

2. As the company has been assessed under the Income Tax Regulation 1923, and as its total income is computed under section 16(1) of the same Regulation, the contention of the company referred to in para ~~29~~ 2 of the Manager's letter referred to above does not appear to be tenable.

3.

3. The letter No. D.2.Dis.16 dated ~~2nd September~~ 29th July 1924 and its enclosures in original received from the Deputy Commissioner of Income Tax are herewith forwarded, with the request that they may kindly be returned when done with.

4. My decision in the super-tax cases relating to the Oriental Government Security Life Insurance Company and the Sholapur Mills was based on the ground partly that there was no reciprocal arrangement as in the case of income tax.

I have the honour to be,
Sir,
Your most obedient servant,

Commissioner of Income Tax. 26/8/24

From

The Deputy Commissioner
of Income-tax in Mysore,
Bangalore.

To

The Commissioner of Income-tax
in Mysore, Bangalore.

Dated 29/7/24.

Office of the DC of I.T. Mysore
Recd. JUL 31 1924
No. C. 11/24-25
Enclosures if any. 1/Nil

Received

General No. 16

No.

Enclosure No. 3

Sir

With reference to your Official Memorandum No.C.11/24-25 dated 5th July 1924 forwarding letter No. Fl.74/I.T. I-24-2 dated 4th July 1924 from the Secretary to Government, Revenue Department, to the Commissioner of Income-tax, in the matter of the assessment of The General Assurance Society, Ltd., of Ajmere and of businesses with headquarters in British India and branches in Mysore, I have the honour to forward, herewith, letter No.D.2.Di. 1/24-25 dated 18th July 1924 and a note from the Assistant Commissioner of Income-tax on the subject.

It is a fact that the profits of The General Assurance Society of Ajmere in the Mysore State were Rs.1,664/- in 1922-23 i.e., far below the taxable minimum. But the Assistant Commissioner of Income-tax has assessed the Society for the reason that its total income within and without Mysore was over Rs.3,400/-.

Section 16(1) overrides the provisions of Section 4(1) in virtue of the words "save as hereinafter provided" with which the latter opens with the result that though ordinarily under Section 4(1) the Income-tax Regulation applied only to those incomes, profits

profits or gains from whatever source derived which accrue or arise or are received in Mysore or deemed to accrue arise or to be received in Mysore, the profits or gains in British India of any business carried on both in British India and in Mysore in respect of which deduction is allowed under Section 10(4) are ~~to be~~ included in computing the total income of an assessee. Though / Under Section 10(4) we have to leave out of account the British Indian income in demanding the tax in fixing the liability or otherwise of a business man or concern and the rate of the tax to which the assessee ~~as it was the case may be~~ is liable, we must, under Sections 3 and 16(1) and Schedule I, recover tax on the remainder of the "total income". If this view which is shared by the Assistant Commissioner and myself is correct, the assessment of the General Assurance Society of Ajmere is in order

In this connection, I would invite your attention to my letter No.C.641/23-24 dated 26th February 1924 to you enclosing a draft letter to the Chief Auditor of the Madras & Southern Mahratta Railway Company, Limited., in which I have fully gone into this question

I have the honour to be,

Sir,

Your most obedient servant

S B Hebbalkar

GBH/SL. DEPUTY COMMISSIONER OF INCOME-TAX.

1924-25

From

The Assistant Commissioner of Income-tax in Mysore, Bangalore.

To

The Deputy Commissioner of Income-tax in Mysore, Bangalore.

OFFICE OF THE DY. COMMISSIONER OF INCOME-TAX IN MYSORE BANGALORE.
15 JUL 1924
NO. 206 ENCLS. 16
BANGALORE.

Dated 16th July 1924.

Despatched — 18

Received

General No. D 2

No. 1 24-25

Enclosure No. one

Sir,

In reply to the Commissioner's memo No.C.II/24-25, dated 5th July 1924, I have the honour to forward herewith -- a note explaining the circumstances -- under which assessment was made of the Mysore income of the Ajmir General Life

Subd: with refes.

23.7.24

Life Assurance Co.. I invite your particular attention to para 8 of my noted request for necessary recommendations

I have the honour to be,

Sir,

Your most obedient servant,

G Madhava Rao

ASSISTANT COMMISSIONER OF INCOME TAX.

16/7/24.

NOTE ON LETTER NO. Fl. 74/I.T. 1-24-2 dated 4th JULY 1924 from the Secretary to Government, Revenue Department.

The Ajmir Life Insurance Company does business partly in British India and partly in Mysore. The points raised by the Company in their letter under disposal are:-

(1). If the Mysore income is liable to Mysore Income-tax when it is less than Rs 2,400/- and

(2). If the demand of tax is correct even when the Company have paid full tax on the total profits in British India.

2 Taking the 2nd point first I have to state that the argument adduced by the Company in para 3 of their letter does not seem to have any force inasmuch as it would not hold in case the Mysore income came above Rs 2,400/- even taking their contention as correct. The reciprocal agreement between the two Governments is mainly intended to apply to such cases and nothing else.

3 As regards the 1st point, I have to state that under Section 16(1) of the Income-tax Regulation of 1923, the total income of such business shall be the income earned in both places though under Section 10(4), a deduction shall be given of the income which appears to the assessing officer to be due to transactions in British India. This interpretation is not prohibited by para 5 of the Resident's letter No. 5306/43-1917 dated 11th June 1921 which only says that in such cases, the Indian Income-tax Officers have to allow a deduction of the Mysore Income-tax from the British Indian Income-tax instead of allowing a deduction of Mysore income from the British Indian income. That this is so is also made clear from the wordings of the Government of India Circular letter of 21st December 1920 as altered recently in their letter to the several Income-tax Officers in the matter of assessment of concerns doing business in both the places evidently on account of the introduction of Sections 16 (1) and 10(4) in the Mysore Regulation.

Whether

4 Whether the Headquarters are in British India or in Mysore, the utmost that the British Indian authorities can get is their own tax on the British Indian income plus the difference between their rate and our rate on the Mysore - income. The contention of the Ajmir Life Insurance Company antamounts to entitling the Indian Government, not only to this, but also to the tax at the Mysore rate on the Mysore Income.

5 Section 10(4) was expressly introduced into the Regulation to avoid the inequity of the Mysore Government getting no tax or tax at a lower rate than what the assessee's total income warranted, in case the Mysore income, taken by itself, fell short of Rs. 2,400/- or of any particular grade. This disability existed under the old Regulation though the Reciprocity agreement by itself did not intend or express - this. That this was the intention is quite clear from the 1st Member's speech in introducing the bill in the Legislative Council. It runs as under:-

"The present law is not clear as to the rate at which the income of firms doing business both in British India and in Mysore should be taxed. The Bill lays down definitely that while in computing the profits of such a business a deduction should be allowed of the amount of profits accruing from the transactions in British India the total income for purposes of determining the rate should include such profits".

6 It is also clear from the explanation to Section 4 of the British Indian Income-tax Act that an income accruing or arising outside British India should not be deemed to be - received or brought into British India by reason only of the fact that it is taken into account in the Balance Sheet prepared in India... Thus the Local Income-tax Officer, Ajmir, can, it seems, under no circumstances consider the Mysore - income as being liable to British Indian Income-tax. If the Company's contention is to be upheld, then the Company may,

it

it seems, very reasonably-claim exemption from taxation on the Mysore Income both here (on the ground that it is less than Rs 2,400/-) and in British India (on the abovementioned ground)

7 While thus supporting my action, I have the honour to state that this opinion was held both by myself and the Deputy Commissioner until it was overruled by the Commissioner in a similar case but this was subsequent to the order made by me in the above case. It was open to the party to have appealed to the proper authority here and exhausted his resources here before going to the Central Board of Revenue as was done by others when such differences arose (vide Sholapur Spinning & Weaving Co., 's file).

8 In this ~~communication~~ connection, I have the honour to state that much inconvenience is being felt in assessing for want of definite instructions in the matter, especially between the Bangalore City and Civil & Military Station. The two being close to each other, I have reason to believe that persons living in one of the 2 places but doing business or earning income in the other or in both the places are escaping taxation on the whole or a portion of the total income on account of the technical difficulty. Though the Mysore Government may not be losers in the long run by the interpretation now put by the Ajmir Life Insurance Company because the tax if recovered by the Cantonment authorities will come back to us as the surplus Revenue of the Assigned Tracts. Still I am afraid that some taxable people may defraud both the Governments. I have the honour, therefore, to request that accrual, arising or receipt in any one of the 2 places may be regarded as accrual

accrual &c., in the other place and-vice versa - so far as Income-tax is concerned, though the reciprocity arrangement may apply equally well as - hithertofore.

9. The file relating to the Ajmir Life Insurance Company is herewith forwarded as required by the - Commissioner of Income-tax.

G. Madhava Rao
Asstt Comm of Dtax
15/7/24

Pol. No. 272
Dt. 18-9-1924.
Sd/- M. K. V. A.

Fair Draft.

J.T. 1-24-4

To

The Secretary to the Hon'ble the Resident in Mysore.

Sir,

With reference to your letter No.5166/45-1917 dated 30th June 1924 in regard to the assessment of the General Assurance Society, Ltd., Ajmere, to Income-tax in Mysore, I am directed to state that, though the income of the Company in Mysore for the year 1922-23 was only Rs.1664 which is less than the taxable minimum of Rs.2400, the same has been assessed to Mysore Tax under section 16(1) of the Mysore Income-tax Regulation of 1923 as the total income of the company from its business both in Mysore and British India has to be taken into account in determining its liability to taxation and such income has in this case amounted to Rs. 5038/- from which the income derived by the Company in British India has been deducted for fixinggthe taxable income in Mysore.

2. With regard to the claim of the Company for refund of the ~~tax~~ tax paid by it to Mysore, I am to state that according to the agreement between the Government of India and the Mysore Government on the subject of assessment of businesses with head-quarters in British India and branches in Mysore, the company can claim from the British Income-tax authority a ~~refund~~ Rebate of the Mysore tax paid by it in respect of its business in the State, ~~but it will be seen~~ as it will appear from letter No. A 1995 dated 13th May 1924 of the Mangger, General Assurance Society, Ajmere, to the Secry. Central Board of Revenue (Copy received with your

p.t.o.

your letter under reply), that the Ajmere Income-tax officer has levied full tax on the total profits of the company ~~and that~~ including that demand company has ~~not been given any rebate~~, though it was entitled to it ~~in respect of the profits~~ from business in Mysore for which income-tax has been ~~levied by the Mysore Income tax authority~~ paid by the company to the Ajmer State.

I have etc.,

dy 4/5

Secry. to Govt.,
Rev.Deptt.